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Summary record (partial)* of the 3077th meeting
Held at the Palais Wilson, Geneva, on Monday, 14 July 2014, at 10 a.m.

Chairperson: Sir Nigel Rodley

Contents

Organizational and other matters

Methods of work

* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 10.05 a.m.

Organizational and other matters

Methods of work

1. **The Chairperson** said that the twenty-sixth meeting of chairpersons of human rights treaty bodies had provided an opportunity to discuss which treaty body practices would be affected by General Assembly resolution 68/268 on strengthening and enhancing the effective functioning of the human rights treaty body system. While it was not the task of the Committee to implement the resolution, it nevertheless needed to respond positively to suggestions and ensure that any resources allocated to it for the discharge of its functions by the General Assembly were used for their intended purpose.

2. Given that, owing to their late distribution, certain treaty bodies had not been able to discuss the three papers prepared by the secretariat which had served as the basis for discussion at the meeting, the chairpersons had agreed, in line with the Poznan Statement, not to implement certain recommendations that went significantly beyond existing treaty body practice. The draft conclusions, decisions and recommendations and their annexes (documents without a symbol circulated in the meeting room), which had been adopted by the chairpersons at their meeting on the basis of the three secretariat papers, provided suggestions on alignment of practices based on good practices by various treaty bodies.

3. The General Assembly had recognized the backlogs experienced by treaty bodies and had responded to that problem by providing for extra treaty body meeting time in the form of either extended meetings or dual chambers. The chairpersons had emphasized that resources provided by the General Assembly needed to be in addition to budgetary and extrabudgetary resources. Ultimately, the resolution had exceeded the expectations of many chairpersons but had little impact on existing practices.

4. **Mr. Shany** asked whether the chairpersons had discussed the issue of dual chambers or whether it was incumbent on each Committee to devise its own strategy.

5. **The Chairperson** said that they had indeed discussed the issue of dual chambers and that, while the resolution suggested they should be used, no treaty body was committed to using them. The Committee needed to decide whether to use extra meeting time by adding a week to sessions or by designating dual chambers within the present structure of sessions.

6. **Mr. Neuman** said that the Committee's objection to implementing certain recommendations had been based on concern about the interpretation of the Poznan Statement at the meeting of chairpersons, rather than the late distribution of the secretariat papers. Although those papers were helpful, some of their suggestions had been unacceptable in that they tended towards excessive uniformization of the treaty bodies' methods of work without regard for each body's specific characteristics.

7. **The Chairperson** said that the Poznan Statement had been drawn up by the High Commissioner for Human Rights with a view to generating more efficient alignment of treaty bodies' methods of work. Chairpersons could not take decisions that bound committees to new positions without consultation with their committees. Committees were also free to formally reject proposals. Consultation constituted in-depth discussion in plenary – and not e-mail exchanges.

8. **Mr. Flinterman** asked whether the proposal to hold two annual meetings of chairpersons was likely to be endorsed by the General Assembly. An additional meeting was crucial in order to make progress in strengthening the treaty body system and would have financial implications. In the light of the Poznan Statement, it was important that the committees should discuss, in advance, items on the agenda of the following meeting of

chairpersons, especially the possible alignment of processes for the formulation of general comments and the issue of late reporting and non-reporting by States parties, so as to enable the chairperson who would attend that meeting to make substantive contributions. Some fundamental problems underlying the strengthening of the treaty body system had not been addressed by the resolution and required further discussion by the Committee. Even if there was no agreement on a comprehensive reporting calendar system, the Committee should examine approaches to that question and adopt a leading role in making proposals for future meetings of chairpersons on treaty body strengthening.

9. **The Chairperson** said that the proposal for an additional meeting of chairpersons, or a similar meeting, had stemmed from the dissatisfaction of chairpersons with the cancellation of the inter-committee meeting of the human rights treaty bodies. However, since meetings of chairpersons alone did not provide an adequate basis for an exchange of ideas about alignment of treaty body practices, the Committee might wish to consider preparing a proposal on the form of that extra meeting. Furthermore, it was conceivable that circumstances could arise, as they had done in the past, which called for consultations to take the form of a non-formal meeting. The issue of the comprehensive reporting calendar remained on the agenda.

10. **Ms. Seibert-Fohr** expressed concern that the focus on alignment of practices might restrict the flexibility of the Committee. It was important not to be bound by the draft conclusions, decisions and recommendations but to reflect as a Committee on ways to address issues within the treaty body strengthening system.

11. **Ms. Fox** (Secretary of the Committee) said that the issue of extra meeting time would be considered by the Bureau at the next session. Section I of the draft conclusions, decisions and recommendations regarding the role of the chairpersons contained no controversial details. Equally, section II included no matter requiring comment. The Committee had already adopted a list of issues prior to reporting procedure, which was similar to the simplified reporting procedure. That optional procedure, which applied only to periodic reports, enabled States parties to request that the Committee should adopt a list of issues prior to a report and to subsequently formulate its replies, which the Committee would consider in lieu of a periodic report. As established in the Committee's paper on the implementation of the new optional reporting procedure (CCPR/C/99/4), the list of issues prior to reporting procedure related only to States parties whose reports had been due in 2013 and beyond, and whose reports were at least 10 years overdue. Applications for the procedure had been made by 28 States parties, 3 had specifically expressed their wish not to follow the procedure, and a number had not responded. Under that procedure, the Committee had examined only the report of Uruguay. Currently, 5 States parties' submissions were late. Such delays constituted a challenge to the Committee.

12. Section II A suggested that committees should consider making a simplified procedure available to all States. Extending the procedure for the present Committee would be particularly complicated — though not impossible — given that the Covenant did not provide for periodicity. If it was agreed to extend the procedure, the secretariat would suggest that it should design methodology for that purpose, to be examined by the Bureau, and that State party reports should be submitted in batches for consideration by the Committee.

13. Section II A also proposed that committees might consider making a simplified procedure available for the consideration of initial reports. The Committee's paper on implementation of the new optional reporting procedure, however, stated that the procedure was not to be applied to initial reports. A further recommendation in section II A was that committees should revise their existing reporting guidelines. The Committee had last revised its guidelines in 2010.

14. Turning to section II B, she said that the recommendations on the constructive dialogue were largely in line with the Committee's current practice, but they did contain the suggestion that time limits should be applied where necessary. The Committee already had time limits for NGO briefings. It was for the Committee to decide if it should set similar limits during the dialogue with States parties. Another suggestion was that the Committee should produce a guidance note for States on the dialogue. The secretariat already posted a short guidance note on its website, which it sent to States prior to their appearance before the Committee, and it would not be difficult to expand the note to include information contained in the annex to the document before the Committee (annex I, entitled "Guidance note for States parties in the constructive dialogue") and present it to the Bureau.

15. Again, section II C on concluding observations contained little that the Committee was not already doing. One suggestion had been that the Committee could address structural obstacles in its concluding observations, as it had in the past. If the Committee wished, that section could be restored, but the Committee might consider it unnecessary, particularly in view of the new word limits. As for recommendations, the Committee already set a time frame of one year for certain issues in its recommendations and it might wish to extend that provision to other areas.

16. With regard to section III on reprisals, the Committee might wish to follow the Committee against Torture, which devoted considerable attention to reprisals against members of civil society and NGOs. The Committee had covered the question of reprisals in only two sets of concluding observations and the secretariat had little information on the matter, perhaps precisely because the Committee had no specific procedure in that regard.

17. The Committee would also need to look at the issue of language, mentioned in annex I of the paper before the Committee, which referred to the requirement in General Assembly resolution 68/268 under which the treaty bodies should restrict themselves to three official languages or, in exceptional circumstances, four.

18. **The Chairperson** noted that, if reprisals occurred after a given session, the concluding observations could not, of course, take account of them. He was, however, in favour of appointing a special rapporteur on reprisals. As for the simplified reporting procedure, he asked whether the Committee should offer such a procedure to every country. Although the General Assembly had called for the introduction of the simplified procedure, it must also be borne in mind that the secretariat would have difficulty in making it operable, not least because of the flexibility in the periodicity of the Committee's reporting system. At the same time, the Committee would not wish to release States whose initial reports were substantially overdue from the obligation to produce a full report.

19. **Mr. Rodríguez-Rescia** said that all States should be treated equally, so the simplified procedure should be available to all States or none. Moreover, the option should be offered but not imposed. In one country in which he had held discussions on the topic, the Ministry of Foreign Affairs had felt uncomfortable about the process, as though the Committee was seeking to redesign the Covenant. It felt that it was for States to decide how they presented their reports. Personally, he supported the new methodology, not for administrative or economic reasons but because it was more rational.

20. **The Chairperson** confirmed that it was indeed the Committee's position that the simplified procedure was offered and not required.

21. **Mr. Iwasawa** said that, to date, the Committee had considered only one report under the new procedure, that of Uruguay, in October 2013. The procedure had proved effective and he hoped that other States parties would opt for it. The idea had been that it would help States submit their reports, but equally the Committee did not want to offer the option to States already under an obligation to submit a report in the standard format. The Covenant

was extremely wide-ranging and the Committee needed all relevant information relating to all the articles. The new procedure should therefore not be offered for initial reports.

22. The reason that the Committee had said it would apply the new procedure from 2013 was that it had wished to give States parties time to prepare. However, the facility should not be offered to States whose reports were more than 10 years overdue. The Committee could discuss whether other conditions should be relaxed.

23. **Mr. Shany** asked how many States parties were currently eligible for the new procedure and what proportion of the total number they represented. Efficiency was not the only factor to take into account; the available resources were also relevant. If there was no need to translate reports beforehand, ways could be found to channel the resources saved into the programme of adjustment that the secretariat needed to undertake.

24. **Ms. Majodina** said that the secretariat was doubtless competent to introduce the new methodology, but she requested further information, so that the Committee had some sense of how the process would move forward. She also asked about the problem of backlogs.

25. **Mr. Ben Achour** said he supported the idea that the new procedure should not be applied to initial reports because the Committee could not produce a list of issues if it was unfamiliar with the basic situation. With regard to the periodicity of reports, he asked what the connection was between such periodicity and the simplified procedure. In fact, the Committee had its own periodicity, in that it met regularly in March, July and October.

26. **The Chairperson** said that some committees specified periods for the submission of reports. The Committee against Torture, for example, stipulated that a report should be submitted every four years. The Human Rights Committee used to have a similar rule but had abandoned it in favour of the current, more flexible practice of submission within a period of three to six years.

27. **Mr. Fathalla**, after endorsing the comments by the previous speakers, said that the Committee should use the interactive dialogue with States parties to explain the advantages of the simplified procedure. Many States might not give due consideration to the secretariat's guidance note. Secondly, a consensus seemed to have emerged within the Committee that the simplified procedure should not be used for initial reports.

28. **Ms. Fox** (Secretary of the Committee) said that she did not know precisely how many States were eligible to apply for the simplified procedure, but she could look into the matter further. The number of States had increased since the Committee had considered the matter in 2010. As for the use of the resources saved, the cost savings had already been taken into account. On the question of the backlog mentioned by Ms. Majodina, the Bureau would look at the extra meeting time available to the Committee in 2015 and decide how to deal with the backlog and with the possible increase in lists of issues prior to reporting. It should be noted, however, that the backlog related mainly to communications; the backlog of reports was small and few had been received over the past year. The normal number expected was 17 per year. With regard to the point raised by Mr. Ben Achour, the periodicity of reports submitted to the Committee against Torture meant that it could plan in advance. It was more complicated for the Human Rights Committee, because no time limit was established until the Committee adopted its concluding observations. In response to Mr. Fathalla, she said that the secretariat sent letters to States annually and, if time limits were included as a matter of course in the concluding observations, it would be helpful for the secretariat.

29. **Mr. Ben Achour** said that, to save time, a limit could be imposed on speaking time for both delegations and task forces. States often repeated what they had already presented in written form. He suggested a time limit of five minutes.

30. **The Chairperson** said that the matter would be considered when the question of the constructive dialogue was discussed.

31. **Mr. Seetulsingh** suggested that the number of pages in a report should be limited; the statistics and figures given were often not relevant. In addition, core documents should be updated.

32. **The Chairperson** drew attention to General Assembly resolution 68/268, paragraph 16 of which limited the number of words to 31,800 for initial reports and 21,200 for periodic reports, while paragraph 3 referred to the updating of core documents. If the limits were not observed, conference services could not process documents properly. However, the matter was out of the Committee's hands. Clearly, it would be easier for a small island State to abide by the limit than for a large State.

33. **Mr. Iwasawa** said that the Committee's reporting guidelines, which had been revised as recently as 2010, were too detailed to be complied with, given the word limits for State party documentation. He did not, however, believe that further amendments were necessary, as the existing guidelines could still prove useful for reference purposes.

34. **Mr. Shany** said the suggestion that there was not a significant backlog of reports was misleading, as it only applied to States parties that had met their reporting deadlines. In the time it had available during the year the Committee would struggle to consider States parties in the absence of a report.

35. **Ms. Fox** (Secretary of the Committee) said that the consideration of States parties in the absence of a report would recommence in March 2015. In that connection, all non-reporting States parties had been sent a letter notifying them of the Committee's intention to examine their implementation of the Covenant in the absence of a report. In view of the complications involved in that approach, it was likely that only one non-reporting State would be considered per session.

36. **Mr. Walker** (Office of the United Nations High Commissioner for Human Rights) said that the simplified reporting procedure, which might entail the reallocation of resources from one department of the secretariat to another, would be completely reviewed in 2020.

37. **The Chairperson**, summarizing the debate, said there was consensus that all States parties submitting periodic reports should be invited to follow the simplified reporting procedure. There was, however, a reluctance to apply the procedure to initial reports. A root and branch review of the reporting guidelines was not urgent and should be left to a later date. In the meantime, the secretariat should advise the Committee on the modifications that were necessary in response to recent developments.

38. With reference to the allocation of working languages, he said that each Committee should make a decision every time its membership changed. It would be useful to know from the secretariat whether any request for a fourth official language would apply only to simultaneous interpreting or to the translation of documents as well. He pointed out that the Committee's rules of procedure would have to be revisited and brought into line with the provisions of General Assembly resolution 68/268.

39. **Mr. Salvioli**, supported by **Mr. Flinterman** and **Mr. Vardzelashvili**, referring to the time allotted to speakers during the constructive dialogue with States parties, said that the Committee should find a compromise between strict limits of the kind imposed by the Committee on the Elimination of Discrimination against Women and its own practice of allowing speakers themselves to decide. One solution would be to establish indicative time limits. In any event, it was important to ensure that Committee members had enough time to ask follow-up questions and that they used that time wisely, which was rarely the case at present. Opening statements by delegations should be subject to very strict time limits as they almost never contained substantive information.

40. **The Chairperson** said there was a general understanding among the treaty bodies that States parties should be given as much time to speak as Committee members. He would be willing to pilot a flexible practice of the sort proposed by Mr. Salvioli, but allowance should be made for the fact that, because of their complexity, some issues took longer to introduce than others. If the Committee decided to set different time limits for country rapporteurs and task force members, all confidentiality regarding their identities would be abandoned.

41. **Mr. Vardzelashvili** said that, if indicative time limits were introduced, the Committee's lists of issues would have to be drafted accordingly.

42. **The Chairperson** said he took it that there was no objection to reviewing the guidance note sent to States parties prior to the consideration of reports.

43. *It was so decided.*

44. **Mr. Fathalla**, referring to the possible appointment of a special rapporteur on reprisals, asked whether any other treaty bodies had such a rapporteur and, if so, what their experience had been.

45. **The Chairperson** said that they did. In the light of the strong condemnation of acts of intimidation and reprisals in paragraph 8 of General Assembly resolution 68/268, the treaty body chairpersons had agreed to develop and adopt a joint policy against reprisals.

46. **Mr. Flinterman** said that he was very much in favour of such an appointment.

47. **Mr. Bouzid** proposed that the role of special rapporteur on reprisals should be occupied by treaty body chairpersons.

48. **The Chairperson** said that, while he was not opposed to assuming that responsibility, the matter should be referred to the Bureau for further consideration.

49. **Mr. Rodríguez-Rescia** said that, bearing in mind the nature of the Committee's work, he was not sure whether the appointment of a special rapporteur on reprisals was justified. He proposed that the secretariat should conduct a study of the circumstances that might warrant such an appointment. If the office was created, it would perhaps be best suited to the Special Rapporteur on New Communications and Interim Measures.

50. **Mr. Walker** (Office of the United Nations High Commissioner for Human Rights) said that the Committee against Torture and the Committee on Enforced Disappearances had special rapporteurs on reprisals and would welcome the appointment of rapporteurs in other treaty bodies in order to share experiences. While there was not a particularly high workload involved, cases did arise in relation to both the reporting procedure and the communications procedure.

51. **The Chairperson** said that the Committee had as much reason to be concerned about intimidation and reprisals against members of civil society as any other treaty body. The question was therefore not whether a rapporteur should be appointed, but who it should be. The matter should be left in abeyance until the Bureau had considered it more fully.

The discussion covered in the summary recorded ended at 11.55 a.m.